

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARSHALL LOSKOT, an individual;)	
and DISABILITY RIGHTS ENFORCEMENT,)	2:04-cv-2096-GEB-CMK
EDUCATION, SERVICES: HELPING)	
YOU HELP OTHERS, a California)	
public benefit corporation,)	
)	<u>ORDER DISMISSING ACTION</u>
Plaintiffs,)	
)	
v.)	
)	
GREEN VALLEY FORD; ROBERT STARKS,)	
an individual dba GREEN VALLEY)	
FORD, SUZUKI, DODGE & MAZDA,)	
)	
Defendants.)	

On December 1, 2005, the parties filed a "Stipulation of Dismissal and [Proposed] Order Thereon" ("Stipulation") which states that the parties

stipulate to dismissal of this action in its entirety without prejudice Outside of the terms of the Mutual Settlement Agreement and Release ("Agreement") herein, each party is to bear its own costs and attorneys' fees. The parties further consent to and request that the Court retain jurisdiction over enforcement of the Agreement.

Therefore, IT IS HEREBY STIPULATED by and between parties to this action . . . that the above-

captioned action be and hereby is dismissed
without prejudice pursuant to Federal Rules of
Civil Procedure section 41(a)(1).

(Stipulation at 1.)

"[T]he mere fact that the parties agree that the court
should exercise continuing jurisdiction [over their Agreement] is not
binding on the court." Arata v. Nu Skin Int'l Inc., 96
F.3d 1265, 1269 (9th Cir. 1996). Further, the parties erroneously
assume in their Stipulation that the Court will exercise jurisdiction
over something it has not seen. Accordingly, the Court will not
retain jurisdiction over enforcement of the parties' Agreement.

Inasmuch as the parties represent they have settled this
action and desire it dismissed, and nothing in their Stipulation
indicates the settlement is contingent upon the Court retaining
jurisdiction over any aspect of their Agreement, this action is
dismissed. See Oswalt v. Scripto, Inc., 616 F.2d 191, 194 (5th
Cir. 1980) (revealing that when the parties' representations of
settlement are tantamount to a stipulated dismissal, a dismissal order
should issue). The Clerk of the Court is directed to close this
action.

IT IS SO ORDERED.

Dated: December 5, 2005

/s/ Garland E. Burrell, Jr.
GARLAND E. BURRELL, JR.
United States District Judge